IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11601 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VIRAMBHAI RUPABHAI RAJPUT

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

NOTICE SERVED BY DS for Respondent No. 1

MR RK KODEKAR for Respondent No. 2

MS PJ DAVAWALA for Respondent No. 4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/04/2001

ORAL JUDGEMENT

#. Heard the learned counsel for the parties. It is not in dispute that the petitioner is a co-detenue. Challenge has been made by petitioner in this petition

who is detained under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980, to the order of the District Magistrate, Banaskantha, Palanpur, dated 15.10.2000 passed in exercise of powers conferred under Section 3(2) of the Act.

#. The learned counsel or the petitioner raised manifold contentions challenging the order impugned in this special civil application of the detaining authority, but as this matter deserves acceptance only on one ground, no need to refer, discuss and give finding on all other contentions. This course is adopted otherwise to save precious and valuable time of the court which is facing serious problem of overcoming pending matters.

#. The learned counsel for the petitioner contended that there is unexplained delay in deciding the representation filed by the detenu.

#. It is not in dispute that representation has been submitted by detenu to the District Magistrate which is dated 6.11.2000 which was received by the detaining authority on 8.11.2000. It was forwarded to the State Government by detaining authority on 9.11.2000. This representation was received by the State Government on 10.11.2000. File was put up and processed by the Branch and cleared by the Under Secretary on 10.11.2000. 11th and 12th November, 2000 were holidays. On 13.11.2000, the file was cleared by the Deputy Secretary and the Secretary, in its turn, cleared the same on 14.11.2000. Admittedly, this file was sent to the Hon'ble Chief Minister of the State on 14.11.2000 which was cleared by him by rejecting the same on 21.11.2000. The delay in deciding the representation made by the Hon'ble Chief Minister has not been explained. To be more precise, it is to be stated that there is no explanation worth the name for this delay caused at the hands of the Hon'ble Chief Minister in deciding the representation. This matter is squarely covered by decision of the apex court in the case of Rajammal v. State of Tamilnadu reported in AIR 1999 SC 684.

#. In the result, this petition succeeds and the same is allowed and the order of detention of the petitioner dated 15.10.2000 is quashed and set aside. The petitioner Virmabhai Rupabhai Rajput, the detenu, at present at Surat Jail, Surat, be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

.....

(sunil)